

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

PAUL ALBA, JR. # 61319-080

PLAINTIFF

VS.

CIVIL ACTION NO. 5:10-cv-49(DCB)(MTP)

DELORES RANDLE, ET AL.

DEFENDANTS

ORDER

This cause is before the Court on the plaintiff Paul Alba, Jr. ("Alba")'s Motion (Request) for Clerk's Record (**docket entry 128**) and Motion (Request) to Proceed on Appeal In Forma Pauperis (**docket entry 135**). Having carefully considered the motions, and being fully advised in the premises, the Court finds as follows:

In his Notice of Appeal (docket entry 127), Alba seeks an interlocutory appeal of this Court's denial of his Motion for Temporary Restraining Order (Memorandum Opinion and Order at docket entry 121). Subsection (a)(3) of 28 U.S.C. § 1915 states that an appeal may not be taken IFP if the district court certifies in writing that the appeal is not taken in good faith. The Court incorporates by reference the Memorandum Opinion and Order (docket entry 121), and finds that Alba's appeal is not taken in good faith. The Court further finds that the plaintiff has filed an impermissible interlocutory appeal. The Court has not entered a final judgment, the plaintiff has stated no basis for allowing an interlocutory appeal, and he has failed to show that an immediate appeal would materially advance the ultimate termination of the

litigation. Finally, the Court finds that because the appeal is not taken in good faith, the plaintiff is not entitled to an appellate record. Accordingly,

IT IS HEREBY ORDERED that the plaintiff Paul Alba, Jr.'s Motion (Request) for Clerk's Record (**docket entry 128**) is DENIED;

FURTHER ORDERED that the plaintiff's Motion (Request) to Proceed on Appeal In Forma Pauperis (**docket entry 135**). is DENIED.

SO ORDERED, this the 3rd day of August, 2011.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE